

**HOFLAND & TOMSHECK**  
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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA**

UNITED STATES OF AMERICA

Plaintiff,

vs.

DAVID HOWARD BABIT,

Defendant.

Case No.: 2:17-mj-01174-EJY

**STIPULATION TO CONTINUE THE  
PRELIMINARY HEARING  
(TWELFTH REQUEST)**

IT IS HEREBY STIPULATED AND AGREED by and between Nicholas A. Trutanich, United States Attorney, and Bianca R. Pucci, Esq., Assistant United States Attorney, counsel for the United States of America, and Joshua Tomsheck, Esq., counsel for Defendant, DAVID HOWARD BABIT, that the Preliminary Hearing currently scheduled for July 21, 2020 at 4:00 P.M. be vacated for one hundred twenty (120) days or to a date and time to be set by this Honorable Court.

This Stipulation is entered into for the following reasons:

1. This is the twelfth continuance request.
2. Defense Counsel needs additional time to conduct investigation into various matters to properly advise the defendant.
3. The parties agree to the continuance.
4. The additional time requested herein is not sought for purposes of delay, but to allow for a potential pre-indictment resolution of the case.
5. Defendant is incarcerated but does not object to the continuance.
6. Denial of this request for continuance of the Preliminary Hearing would prejudice the defendant and the Government, and unnecessarily consume this Court's valuable resources, taking into account the exercise of due diligence.

- 1 7. Additionally, denial of this request for continuance could result in a miscarriage of justice.
- 2 8. For the above stated reasons, the parties agree that a continuance of the Preliminary Hearing
- 3 would best serve the ends of justice in this case.
- 4 9. The additional time requested by this Stipulation is excludable in computing the time within
- 5 which the trial herein must commence pursuant to the Speedy Trial Act, Title 18, United States
- 6 Code §§ 3161(b) and 3161(h)(7)(A), considering the factors under Title 18, United States Code
- 7 § 3161(h)(7)(B)(i) and (iv).
- 8

9 DATED this 7<sup>th</sup> day of July, 2020.

10

11 NICHOLAS A. TRUTANICH  
12 UNITED STATES ATTORNEY

13 /s/ Bianca R. Pucci  
14 BIANCA R. PUCCI, ESQ.  
Assistant United States Attorney

15 /s/ Joshua Tomsheck  
16 JOSHUA TOMSHECK, ESQ.  
17 Attorney for Defendant

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Plaintiff,

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DAVID HOWARD BABIT

Defendant.

Case No.: 2:17-mj-01174-EJY

**ORDER CONTINUING PRELIMINARY  
HEARING**

FINDINGS OF FACT

Based upon the pending Stipulation of counsel, and good cause appearing therefor, the Court hereby finds that:

1. This is the twelfth request for continuance.
2. Defense Counsel needs additional time to conduct investigation into various matters properly advise the defendant.
3. The parties agree to the continuance.
4. The additional time requested herein is not sought for purposes of delay, but to allow for a potential pre-indictment resolution of the case.
5. Defendant is incarcerated but does not object to the continuance.
6. Denial of this request for continuance of the Preliminary Hearing would prejudice the defendant and the Government, and unnecessarily consume this Court's valuable resources, taking into account the exercise of due diligence.
7. Additionally, denial of this request for continuance could result in a miscarriage of justice.
8. For the above stated reasons, the parties agree that a continuance of the Preliminary Hearing would best serve the ends of justice in this case.

CONCLUSIONS OF LAW

The continuance sought herein is excludable under the Speedy Trial Act, Title 18, United States Code Section 3161(h)(7)(A), when considering the factors under Title 18, United States Code, Sections § 3161(h)(7)(B)(i) and (iv).

ORDER

IT IS HEREBY ORDERED that the Preliminary Hearing in the above-captioned matter currently scheduled for July 21, 2020 be vacated and continued to the 18th day of November, 2020, at 4:00 p.m. in Courtroom 3B.

DATED AND DONE this 8th day of July, 2020.

  
UNITED STATES MAGISTRATE JUDGE

Respectfully Submitted By:

/s/ Joshua Tomsheck  
Joshua Tomsheck, Esq.  
Nevada Bar No. 009210  
Attorney for Defendant